

REMARKS

Claims 1 through 13 are pending in this Application. Claims 1 and 10 through 13 have been amended. Care has been exercised to avoid the introduction of new matter. Indeed, adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure. Applicants submit that the present Amendment does not generate any new matter issue.

Claim Objections

The Examiner objected to claims 11 and 13, suggesting the deletion of the word “said” in line 4 of each claim.

In response, line 4 of each of claims 11 and 13 has been amended by deleting the word “said” as suggested by the Examiner, thereby overcoming the stated bases for the claim objections. Accordingly, withdrawal of the objection to claims 11 and 13 is solicited.

Claims 10 through 13 were rejected under the second paragraph of 35 U.S.C. §112.

In the statement of the rejection, the Examiner asserted that claims 10 through 13 do not particularly point out and distinctly claim the invention because of language which forms a circular configuration. This rejection is traversed.

Claims 10 through 13 have been amended to clarify that a circular configuration is not formed, consistent with the written description of the specification and the figures, as observed by the Examiner. Applicants submit that one having ordinary skill in the art would have no difficulty understanding the scope of the claimed invention when reasonably interpreted in light of and consistent with the written description of the specification, which

is the judicial standard. *Miles Laboratories, Inc. v. Shandon, Inc.*, 997 F.2d 870, 27 USPQ2d 1123 (Fed. Cir. 1993).

Applicants, therefore, submit that the imposed rejection of claims 10 through 13 under the second paragraph of 35 U.S.C. §112 is not viable and, hence, solicit withdrawal thereof.

Claims 1 through 6 and 8 were rejected under 35 U.S.C. §103 for obviousness predicated upon Chung et al.

Claims 1 through 6 and 8 were rejected under 35 U.S.C. §103 for obviousness predicated upon Tsukitani et al. in view of Wildeman.

Each of the above rejections is traversed. Specifically, claim 1 is directed to an optical cable which is designed to be installed on land. The claimed optical cable is structured to accommodate at least two optical fiber lines. In addition, there are a first optical fiber and a second optical fiber at both ends of the optical cable. These features, i.e., an optical cable accommodating at least two optical fiber lines, with a first optical fiber and second optical fiber at both ends of the optical cable, are neither disclosed nor suggested by either Chung et al. or Tsukitani et al., or Wildeman for that matter. The Examiner's additional comments with respect to the rejection predicated upon Chung et al., and the secondary reference of Wildeman do not cure the above-argued deficiencies.

There is no apparent factual basis of record upon which to predicate the conclusion that one having ordinary skill in the art would have been realistically motivated to modify the optical cable disclosed by Chung et al., or whatever optical cable can be said to have been reasonably suggested by the combined disclosures of Tsukitani et al. and Wildeman, to

arrive at the claimed invention. *In re Lee*, 237 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

Applicants, therefore, submit that the imposed rejection of claims 1 through 6 and 8 under 35 U.S.C. §103 for obviousness predicated upon Chung et al., and the rejection of claims 1 through 6 and 8 under 35 U.S.C. §103 for obviousness predicated upon Tsukitani et al. in view of Wildeman, are not factually or legally viable and, hence, solicit withdrawal thereof.

Claim 7 was rejected under 35 U.S.C. §103 for obviousness predicated upon Tsukitani et al. in view of Wildeman and Ray et al.

Claim 9 was rejected under 35 U.S.C. §103 for obviousness predicated upon Tsukitani et al. in view of Wildeman and Fangmann et al.

Each of the above rejections is traversed. Specifically, each of claim 7 and 9 depend from independent claim 1. Applicants incorporate herein the arguments previously advanced in traversing the imposed rejection of claim 1 under 35 U.S.C. §103 for obviousness predicated upon Tsukitani et al. in view of Wildeman. The tertiary references to Ray et al. and Fangmann et al. do not cure the argued deficiencies in the attempted combination of Tsukitani et al. and Wildeman.

Applicants, therefore, submit that the imposed rejection of claim 7 under 35 U.S.C. §103 for obviousness predicated upon Tsukitani et al. in view of Wildeman and Ray et al. and the imposed rejection of claim 9 under 35 U.S.C. §103 for obviousness predicated upon Tsukitani et al. in view of Wildeman and Fangmann et al. are not factually or legally viable and, hence, solicit withdrawal thereof.

Applicants acknowledge, with appreciation, the Examiner's indication that claims 10 through 13 would be allowed upon overcoming the imposed rejection under the second paragraph of 35 U.S.C. §112. Based upon the foregoing it should be apparent that the objection and rejections have been overcome, and that all claims are in condition for immediate allowance. Favorable consideration is, therefore, respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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Date: October 22, 2003